

1791. (5)
BS 68/16 (11)
Read 7 March 1791.
Enacted 31 Geo. III. Public Acts, c. 31.

[1]



DRAFT OF A BILL,

T O

Repeal certain Parts of an Act passed in the Fourteenth Year of His Majesty's Reign, intituled, "An Act for making more effectual Provision for the Government of the Province of *Quebec*, in *North America*." And to make further Provision for the Government of the said Province.



W H E R E A S an Act was passed in the Fourteenth Year of the Reign of his present Majesty, intituled, "An Act for making more effectual Provision for the Government of the Province of *Quebec*, in *North America*." And whereas the said Act is, in many Respects, inapplicable to the present Condition and Circumstances of the said Province:

And whereas it is expedient and necessary that further Provision should now be made for the good Government and Prosperity thereof:

A

MAY

Preamble:

*14 Geo. 3. c. inapplicable
to present condition of the Province*

1. MAY IT THEREFORE PLEASE YOUR MOST EXCELLENT MAJESTY,

That it may be enacted, and be it enacted, by

THE KING'S MOST EXCELLENT MAJESTY,

By and with the Advice and Consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the Authority of the same,

*So much of it repeated
as relates to appointing a
Council, and the Council
making Ordinances.*

That so much of the said Act as in any Manner relates to the Appointment of a Council for the Affairs of the said Province of Quebec, or to the Power given by the said Act to the said Council, or to the major Part of them, to make Ordinances for the Peace, Welfare, and good Government of the said Province, with the Consent of his Majesty's Governor, Lieutenant-Governor, or Commander in Chief for the Time being, shall be, and the same is hereby, repealed.

2. And whereas his Majesty has been pleased to signify, by his Message to both Houses of Parliament, his Royal Intention to divide his Province of Quebec into two separate Provinces, to be called the Province of Upper Canada, and the Province of Lower Canada; be it enacted, by the Authority aforesaid, That there shall be, within each of the said Provinces respectively, a Legislative Council, and a House of Assembly, to be severally composed, and constituted, in the Manner herein after described:

*Quebec divided into
Upper & Lower Canada.
Legislative Council &
Assembly within each.*

And that, in each of the said Provinces respectively, his Majesty, his Heirs, or Successors, shall have Power, during the Continuance of this Act, by and with the Advice and Consent of the Legislative Council and House of Assembly of such Provinces respectively, to make Laws for the Peace, Welfare, and good Government thereof, such Laws not being repugnant to this Act:

*The King with consent
of such Leg. Council and
Assembly to make Laws.*

And that all such Laws, being passed by the Legislative Council and House of Assembly of either of the said Provinces respectively, and assented to by his Majesty, his Heirs, or Successors, or assented to in his Majesty's Name by such Person as his Majesty, his Heirs, or Successors, shall from Time to Time appoint to be the Governor or Lieutenant-Governor of such Province, or by such Person as his Majesty,

*Those laws, if assented
to by Gov. Lieutenant Governor,
or other person appointed
to be valid.*

Majesty, his Heirs, or Successors, shall from Time to Time appoint to administer the Government within the same, in the Absence of such Governor or Lieutenant-Governor, shall be, and the same are hereby declared to be, by virtue of and under the Authority of this Act, valid and binding on the Inhabitants of the Province in which the same shall have been so passed.

And be it further Enacted, by the Authority aforesaid, That for the Purpose of constituting such Legislative Council as aforesaid, in each of the said Provinces respectively, it shall and may be lawful for his Majesty, his Heirs, or Successors, by any Instrument under his or their Sign Manual, to authorize and direct the Governor, or Lieutenant-Governor, or Person administering the Government in each of the said Provinces respectively, within the Time hereinafter-mentioned, in his Majesty's Name, and by an Instrument under the Great Seal of such Province, to summon to the said Legislative Council, to be established in each of the said Provinces respectively, a sufficient Number of discreet and proper Persons, being not fewer than Seven to the Legislative Council for the Province of Upper Canada, and not fewer than Fifteen to the Legislative Council for the Province of Lower Canada:

And that it shall also be lawful for his Majesty, his Heirs, or Successors, from Time to Time, by any Instrument under his or their Sign Manual, to authorize and direct the Governor, or Lieutenant-Governor, or Person administering the Government in each of the said Provinces respectively, to summon to the Legislative Council of such Province, in like Manner, such other Person or Persons as his Majesty, his Heirs or Successors, shall think fit:

And that every Person, who shall be so summoned to the Legislative Council of either of the said Provinces respectively, shall thereby become a Member of such Legislative Council to which he shall have been so summoned.

Provided always, and be it Enacted, by the Authority aforesaid, That no Person shall be summoned to the said Legislative Council, in either of the said Provinces, who shall not be of the full Age of Twenty-one Years, and a natural-born Subject of his Majesty, or a Subject of his Majesty naturalized by Act of the British Parliament, or a Subject of his Majesty having become such by the Conquest and Cession of the Province of Canada.

And

3. *The King may direct the Governor &c. to summon to the Legislative Council not fewer than 7. persons in Upper, nor fewer than 15. persons in Lower Canada*

And to summon such other persons as the King shall think fit.

Persons so summoned are to be members

4. *None summoned under 21 y^r or not a subject*

*Members to hold
their seats for life*

5. And be it further Enacted, by the Authority aforesaid, That every Member of each of the said Legislative Councils shall hold his Seat therein for the Term of his Life; but subject nevertheless to the Provisions hereinafter contained for vacating the same in the Cases herein after specified.

*If the King confers
a title of honor, he may
annex thereto an hereditary
right of being summoned to
the Council*

6. And be it further Enacted, by the Authority aforesaid, That whenever his Majesty, his Heirs, or Successors, shall think proper to confer upon any Subject of the Crown of Great Britain, by Letters Patent under the Great Seal of either of the said Provinces, any Hereditary Title of Honour, Rank, or Dignity of such Province, descendible according to any Rule of descent limited in such Letters Patent, it shall and may be lawful for his Majesty, his Heirs, or Successors, to annex thereto, by the said Letters Patent, if his Majesty, his Heirs, or Successors, shall so think fit, an Hereditary Right of being summoned to the Legislative Council of such Province, descendible according to the Rule of Descent so limited with respect to such Title, Rank, or Dignity: And that every Person, in whom such Right shall severally so descend, shall thereupon be entitled to demand from the Governor, Lieutenant-Governor, or Person administering the Government of such Province, his Writ of Summons to such Legislative Council, at any Time after he shall have attained the Age of Twenty-one Years; subject nevertheless to the Provisions hereinafter contained.

*Person takes such
honour by descent, who are
absent from the Province
for 4 y^{rs}? &c. not entitled
to writ of summons, unless
the King shall direct one
to be issued*

7. Provided always, and be it further Enacted, by the Authority aforesaid, That when and so often as any Person, to whom such Hereditary Right shall have descended, shall, without the Permission of his Majesty, his Heirs, or Successors, signified to the Legislative Council of the Province by the Governor, Lieutenant-Governor, or Person administering the Government there, have been absent from the said Province for the Space of four Years continually, at any Time between the Time of his applying for such Writ of Summons, and the Date of his succeeding to such Right, if he shall have been of the Age of Twenty-one Years, or upwards at the Time of his so succeeding; or between the Time of his so applying and the Date of his attaining the said Age, if he shall not have been of the said Age, at the Time of his so succeeding; And also when, and so often, as any such Person shall at any Time before his applying for such Writ of Summons have taken any Oath of Allegiance or Obedience to any foreign Prince, or Power; in every

every such Case, such Person shall not be entitled to receive any Writ of Summons to the Legislative Council, by Virtue of such Hereditary Right, unless his Majesty, his Heirs, or Successors, shall at any Time think fit by Instrument under his or their Sign Manual, to direct that such Person shall be summoned to the said Council. And the Governor, Lieutenant-Governor, or Person administering the Government in the said Provinces respectively, is hereby authorized and required, previous to granting such Writ of Summons to any Person so applying for the same, to interrogate such Person upon Oath, touching the said several Particulars, before such Executive Council as shall have been appointed by his Majesty, his Heirs, or Successors, within such Province for the Affairs thereof.

Provided also, and be it further Enacted, by the Authority aforesaid, That if any Member of the Legislative Councils of either of the said Provinces respectively, shall leave such Province, and shall reside out of the same for the Space of Four Years continually, without the Permission of his Majesty, his Heirs, or Successors, signified to such Legislative Council by the Governor, or Lieutenant-Governor, or Person administering his Majesty's Government there; or for the Space of Two Years continually, without the like Permission, or the Permission of the Governor, Lieutenant-Governor, or Person administering the Government of such Province, signified to such Legislative Council in the Manner aforesaid: or if any such Member shall take any Oath of Allegiance or Obedience to any foreign Prince or Power, his seat in such Council shall thereby become vacant.

Provided also, and be it further Enacted, by the Authority aforesaid, That in every Case where a Writ of Summons to such Legislative Council shall have been withheld from any Person to whom such Hereditary Right as aforesaid shall have descended, by reason of his Absence from the Province, or of his having taken an Oath of Allegiance or Obedience to any foreign Prince or Power; and also in every case where the Seat of such Person at such Council shall have been vacated by reason of either of the said Causes; such Hereditary Right shall remain suspended during the Life of such Person, unless his Majesty, his Heirs, or Successors, shall afterwards think fit to direct that he be summoned to such Council: But that on the Death of such Person, such Right subject to the

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8.

*Any Member residing
4 y^r out of the Province
without the King's leave, or
2 y^r without leave from the
Governor his seat is to
be vacated.*

9.

*and is continue for life
Unless the King shall
direct him to be sum-
moned.*

*But the heir may be
summoned.*

Provisions herein contained, shall descend to the Person who shall next be entitled thereto, according to the Rule of Descent limited in the Letters Patent, by which the same shall have been originally conferred,

10. *Members
disqualified by
Attainder* Provided also, and be it further Enacted, by the Authority aforesaid, That, if any Member of either of the said Legislative Councils be attainted for Treason or Felony, his Seat in such Council shall thereby become vacant; and any such Hereditary Right as aforesaid, then vested in such Person, or to be derived to any other Persons through him, shall be utterly forfeited and extinguished.

11. *The Governor may
appoint a Speaker of the
Council.* And be it further Enacted, by the Authority aforesaid, That the Governor, or Lieutenant-Governor, of the said Provinces respectively, or the Person administering his Majesty's Government therein respectively, shall have Power and Authority from Time to Time, by an Instrument under the Great Seal of such Province, to constitute, appoint, and remove, the Speakers of the Legislative Councils of such Provinces respectively.

12. *The King may
authorize the Governor
to summon an Assembly* And be it further Enacted, by the Authority aforesaid, That for the Purpose of constituting such Assembly as aforesaid, in each of the said Provinces respectively, it shall and may be lawful for his Majesty, his Heirs, or Successors, by any Instrument under his or their Sign Manual, to authorize and direct the Governor, or Lieutenant-Governor, or Person administering the Government in each of the said Provinces respectively, within the Time hereinafter-mentioned, and thereafter from Time to Time as Occasion shall require, in his Majesty's Name, and by an Instrument under the Great Seal of such Province, to summon and call together an Assembly in and for such Province.

13. *The King to authorize
Governor to divide
the Province into districts
to appoint the number
of representatives for
each district & town.* And be it further Enacted, by the Authority aforesaid, That, for the Purpose of electing the Members of such Assemblies respectively it shall and may be lawful for his Majesty, his Heirs, or Successors, by any Instrument under his, or their Sign Manual, to authorize the Governor, or Lieutenant-Governor, of each of the said Provinces respectively, or the Person administering the Government therein, within the Time herein-after mentioned, to issue a Proclamation, dividing such Province into Districts, or Counties, or Circles, and Towns; and appointing the Limits thereof, and declaring, and appointing, the Number of Representatives to be chosen by each of such Districts, or Counties, or Circles, and Towns, respectively : And

And that it shall also be lawful for his Majesty to authorize such Governor, or Lieutenant-Governor, or Person, as aforesaid, to nominate and appoint proper Persons to execute the Office of Returning Officer, in each of the said Districts, or Counties, or Circles, and Towns, respectively :

And that such Division of the said Provinces into Districts, or Counties, or Circles, and Towns; and such Declaration and Appointment of the Number of Representatives, to be chosen by each of the said Districts, or Counties, or Circles, and Towns, respectively; and also such Nomination and Appointment of Returning Officers, in the same, shall be valid and effectual to all the Purposes of this Act, unless it shall, at any Time, be otherwise provided by any Act of the Legislative Council and Assembly of the Province, assented to by his Majesty, his Heirs, or Successors.

Provided always, and be it further Enacted, by the Authority aforesaid, That no Person shall be obliged to execute the said Office of Returning Officer for any longer Time than One Year, or oftener than once, unless it shall, at any Time, be otherwise provided by any Act of the Legislative Council, and Assembly of the Province, assented to by his Majesty, his Heirs, or Successors.

Provided always, and be it Enacted, by the Authority aforesaid, That the Whole Number of Members, to be chosen in the Province of Upper Canada, shall not be less than Sixteen; and that the Whole Number of Members, to be chosen in the Province of Lower Canada, shall not be less than Thirty.

And be it further Enacted, by the Authority aforesaid, That Writs, for the Election of Members to serve in the said Assemblies respectively, shall be issued by the Governor, Lieutenant-Governor, or Person administering his Majesty's Government, within the said Provinces respectively, within Fourteen Days after the Sealing of such Instrument, as aforesaid; and shall be directed to the respective Returning Officers of the said Districts, or Counties, or Circles, and Towns; and that such Writs shall be made returnable within Fifty Days, at farthest, from the Day on which they shall bear date :

And

The King to authorize Governor &c. to appoint returning officers.

Such division, & appointments to be valid till altered by Council & Assembly.

14. *No person obliged to be returning officer for more than one year.*

15. *Not less than 16 members of Assembly in Upper Canada — not less than 30 in Lower Canada.*

16. *The Governor &c. to issue writs within 14 days after being authorized by the King — returnable within 50 days.*

*So in case
of vacancies.*

*Writs in case of
vacancy to be issued
in 6 days.*

*Returning Officers
to execute the writs*

*In districts
electors to be
possessed of land, or
tenements of annual
value of 5 £*

*In Towns,
to have a dwelling-house,
and lot of ground, of
5 £ Ann. or to have resided
for 12 Months next to 12
Ann.*

And that Writs shall, in like Manner and Form, be issued for the Election of Members in the Case of any Vacancy which shall happen by the Death of the Person chosen, or by his being summoned to the Legislative Council of either Province :

And, That in the Case of any such Vacancy, which shall happen by the Death of the Person chosen, or by Reason of his being so summoned as aforesaid, the Writ, for the Election of a new Member, shall be issued within Six Days after the same shall be made known to the proper Officer for issuing such Writs of Election.

17. And be it further Enacted, by the Authority aforesaid, That all and every the Returning Officers so appointed as aforesaid, to whom any such Writs as aforesaid shall be directed, shall, and they are hereby authorized and required duly to Execute such Writs.

18. And be it further Enacted, by the Authority aforesaid, That the Members for the several Districts, or Counties, or Circles, of the said Provinces respectively, shall be chosen by the Majority of such Persons as shall severally be possessed, for their own Use and Benefit, of Lands, or Tenements, within such District, or County, or Circle, as the Case shall be, such Lands being held in Freehold, or in Fief, or in Roture, or by Certificate, derived under the Authority of the Governor and Council of the Province of Quebec; and being of the yearly Value of Five Pounds Sterling, or upwards, over and above all Rents and Charges payable out of or in respect of the same :

And that the Members for the several Towns, within the said Provinces respectively, shall be chosen by the Majority of Votes of such Persons as either shall severally be possessed, for their own Use and Benefit, of a Dwelling-house, and Lot of Ground, in such Town, or in the Township or Parish thereof, such Dwelling-house, and Lot of Ground, being held in like Manner as aforesaid, and being of the yearly Value of Five Pounds Sterling, or upwards; or having been resident within the said Town, Township, or Parish, for the Space of Twelve Months, next before the Date of the Writ of Summons for the Election, shall *bona fide* have paid Rent for the Dwelling-house in which they shall have so resided, at the Rate of Ten Pounds Sterling *per Annum* or upwards.

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Provided always, and be it further Enacted, by the Authority
aforesaid, That no Person shall be capable of being Elected a Mem-
ber to serve in either of the said Assemblies, or of sitting or voting
therein, who shall be a Member of either of the said Legislative
Councils, to be established as aforesaid, in the said Two Provinces :

Or who shall be a Minister of the Church of England, or a Mi-
nister, Priest, or Ecclesiastic, either according to the Rites of the
Church of Rome, or under any other Form or Profession of Religious
Faith or Worship.

Provided also, and be it further Enacted, by the Authority afore-
said, That no Person shall be capable of voting at any Election of a
Member to serve in such Assembly, in either of the said Provinces,
or of being elected at any such Election, who shall not be of the
full Age of Twenty-one, and a natural-born Subject of his Majesty,
or a Subject of his Majesty naturalized by Act of the British Parlia-
ment, or a Subject of his Majesty, having become such by the Con-
quest and Cession of the Province of Canada.

And be it also Enacted, by the Authority aforesaid, That no Per-
son shall be capable of voting at any Election of a Member to serve
in such Assembly, in either of the said Provinces, or of being
elected at any such Election, who shall have been attainted for
Treason or Felony, or who shall be within any Description of Persons
disqualified by any Act of the Legislative Council, and Assembly, of
the Province, assented to by his Majesty, his Heirs, or Successors.

Provided also, and be it further Enacted, by the Authority afore-
said, That every Voter, before he is admitted to give his Vote at
any such Election, shall, if required by any of the Candidates, or
by the Returning Officer, take the following Oath, which shall be
administered in the English or French Language, as the Case may
require ;

" I A. B. do declare and testify, in the Presence of Almighty
" God, that I am, to the best of my Knowledge and Belief, of
" the full Age of Twenty-one Years ; and that I have not been
" polled before at this Election."

And that every such Person shall also, if so required as aforesaid,
make oath, previous to his being admitted to vote, that he is, to
C the

19. *No member of the
Council to vote in the
Assembly
nor minister of a parish.*

20. *not being under 21 yrs.
or not natural born
subject.*

21. *not being attainted*

22. *The electors' oath*

*To swear to
qualification.*

the best of his Knowledge and Belief, duly possessed of such Lands and Tenements, or Houses, or Lots of Ground, or that he has, *bona fide*, paid such Rent for his Dwelling-house as entitles him, according to the Provisions of this Act, to give his Vote at such Election for the County or District, or Circle, or for the Town, for which he shall offer the same.

*The King to
authorize the Governor to
fix time & place of
election.*

23. **And be it further Enacted**, by the Authority aforesaid, That it shall and may be lawful for his Majesty, his Heirs, or Successors, to authorize the Governor, or Lieutenant Governor, or Person administering the Government, within each of the said Provinces respectively, to fix the Time and Place for holding such Elections; subject, nevertheless, to such Provisions as may hereafter be made in these respects by any Act of the Legislative Council, and Assembly, of the Province, assented to by his Majesty, his Heirs, or Successors.

*and to fix the
first & other Sessions.*

24. **And be it further Enacted**, by the Authority aforesaid, That it shall and may be lawful for his Majesty, his Heirs, or Successors, to authorize the Governor, or Lieutenant Governor, of each of the said Provinces respectively, or the Person or Persons administering the Government therein, to fix the Places and Times of holding the First and every other Session of the Legislative Council and Assembly of such Province, and to prorogue the same, from Time to Time, and to dissolve the same, by Proclamation or otherwise, whenever he shall judge it necessary, or expedient.

*The Council & Assembly
to sit once a year
The Assembly to last for
7 y^{rs} subject to
dissolution.*

25. **Provided always, and be it Enacted**, by the Authority aforesaid, That the said Legislative Council and Assembly, in each of the said Provinces, shall be called together once at the least in every Twelve Calendar Months; and that every Assembly shall continue for Seven Years from the Day of the Return of the Writs for choosing the same, and no longer; subject, nevertheless, to be sooner dissolved by the Governor, or Lieutenant Governor, of the Province, or Person administering his Majesty's Government therein.

majority to decide

26. **And be it further Enacted**, by the Authority aforesaid, That all Questions, which shall arise in the said Legislative Councils or Assemblies respectively, shall be decided by the Majority of Voices of such Members as shall be present; and that, in all Cases where the Voices shall be equal, the Speaker of such Council or Assembly, as the Case shall be, shall have a Casting Voice.

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Provided always, and be it Enacted, by the Authority aforesaid, 27.
That no Member, either of the Legislative Council or Assembly, in either of the said Provinces, shall be permitted to sit, or to vote therein, until he shall have taken and subscribed the following Oath, either before the Governor, or Lieutenant Governor, of such Province, or Person administering the Government therein; or before some Person or Persons authorized by the said Governor, or Lieutenant Governor, or other Person as aforesaid, to administer such Oath; and that the same shall be administered in the English or French Language, as the Case shall require:

Member's oath.

" I A. B. do sincerely promise and swear, that I will be faithful
" and bear true Allegiance to his Majesty King George, as law-
" ful Sovereign of the Kingdom of Great Britain, and of these
" Provinces, dependent on, and belonging to, the said Kingdom;
" and that I will defend him to the utmost of my Power against
" all Traiterous Conspiracies and Attempts whatever, which
" shall be made against his Person, Crown, and Dignity; and
" that I will do my utmost Endeavour to disclose and make
" known to his Majesty, his Heirs, or Successors, all Treasons
" and Traiterous Conspiracies and Attempts which I shall know
" to be against him, or any of them;

" And all this I do swear without any Equivocation, mental Eva-
" sion, or secret Reservation; and renouncing all Pardons and
" Dispensations from any Person or Power whatever to the
" contrary.

So help me G O D."

And be it further Enacted, by the Authority aforesaid, That 28.
whenever any Bill, which has been passed by the Legislative Council and by the House of Assembly, in either of the said Provinces respectively, shall be presented for his Majesty's Assent to the Governor or Lieutenant Governor of such Province, or to the Person administering his Majesty's Government therein, it shall and may be lawful for such Governor, or Lieutenant Governor, or other Person, as aforesaid, at his Discretion, subject, nevertheless, to such Instructions as may, from Time to Time, be given in that Behalf by his Majesty, his Heirs, or Successors, either to declare that he assents to such

*Governor &c. may
declare he assents, or
witholds assent till the
King's pleasure known.*

such Bill, in his Majesty's Name, or to declare that he with-holds his Majesty's Assent, or that he reserves the Bill until his Majesty's Pleasure shall be signified thereon.

29. **And be it further Enacted**, by the Authority aforesaid, That no such Bill, which shall be so reserved for the Signification of his Majesty's Pleasure thereon, shall have any Force or Authority within the Province, until such Governor, or Lieutenant Governor, or other Person, as aforesaid, shall signify, either by Speech or Message, to the Legislative Council and Assembly of such Province, or by Proclamation, that such Bill has been laid before his Majesty in Council, and that his Majesty has been pleased to assent to the same; and that an Entry shall be made in the Journals of the said Legislative Council of every such Speech, Message, or Proclamation, and a Duplicate thereof, duly attested, shall be delivered to the proper Officer, to be kept amongst the Public Records of the Province.

*No bill referred for the
King's pleasure to be
known, to be of force
till that is known,*

30. **And be it further Enacted**, by the Authority aforesaid, That all Laws, Statutes, and Ordinances, now in Force in the said Provinces, or in either of them, or in any Part thereof respectively, shall remain and continue to be of the same Force, Authority, and Effect, in each of the said Provinces respectively, as before the passing of this Act, except in so far as the same are expressly repealed or varied by this Act, or in so far as the same shall or may hereafter, by virtue of and under the Authority of this Act, be repealed or varied by his Majesty, his Heirs, or Successors, by and with the Advice and Consent of the Legislative Councils and Assemblies of the said Provinces respectively; or in so far as the same may be repealed or varied by such Temporary Laws or Ordinances as may be made in the Manner hereinafter specified.

*All laws to continue
except as they are
altered by this act, or
by acts of the legislature
there.*

31. **And whereas**, by the above recited Act, passed in the Fourteenth Year of the Reign of his present Majesty, it was declared, " That the
" Clergy of the Church of *Rome*, in the Province of *Quebec*, might
" hold, receive, and enjoy, their accustomed Dues and Rights with
" respect to such Persons only as should Profess the said Religion;
" provided, nevertheless, that it shall be lawful for his Majesty, his
" Heirs, or Successors, to make such Provision out of the rest of the
" said accustomed Dues, and Rights, for the Encouragement of the
" Protestant Religion, and for the Maintenance and Support of a
" Protestant

"Protestant Clergy within the said Province, as he or they should, from Time to Time, think necessary and expedient."

And whereas by his Majesty's Royal Instructions, given under his Majesty's Royal Sign Manual, on the Twenty-second Day of December, in the Year of our Lord, 1774, to *Guy Carleton*, Esq. now Lord *Dorchester*, at that Time his Majesty's Captain General, and Governor in Chief, in and over his Majesty's Province of *Quebec*, his Majesty was pleased, amongst other Things, to direct "That no Incumbent, professing the Religion of the Church of *Rome*, appointed to any Parish in the said Province, should be entitled to receive any Tythes for Lands or Possessions occupied by a Protestant; but that such Tythes should be received by such Persons as the said *Guy Carleton*, Esq. his Majesty's Captain General, and Governor in Chief, in and over his Majesty's said Province of *Quebec*, should appoint, and should be reserved in the Hands of his Majesty's Receiver General of the said Province, for the Support of a Protestant Clergy, in his Majesty's said Province, to be actually resident within the same, and not otherwise, according to such Directions as the said *Guy Carleton*, Esq. his Majesty's Captain General, and Governor in Chief, in and over his Majesty's said Province, should receive from his Majesty in that Behalf; and that in like Manner all growing Rents and Profits of a Vacant Benefice should be reserved for and applied to the like Uses:" And, Whereas his Majesty's Pleasure has likewise been signified to the same Effect, in his Majesty's Royal Instructions, given in like Manner to Sir *Frederic Haldimand*, Knight of the Most Honourable Order of the Bath, late his Majesty's Captain General, and Governor in Chief, in and over the said Province of *Quebec*; And also to the said Right Honourable *Guy*, Lord *Dorchester*, now his Majesty's Governor General of all his Majesty's Colonies in *North America*:

Be it Enacted, by the Authority aforesaid, That the said Declaration and Provision, contained in the said above recited Act, and also the said Provision so made by his Majesty in Consequence thereof, by his Instructions above recited, shall remain, and continue to be of full Force and Effect, in each of the said Two Provinces of *Upper Canada*, and *Lower Canada* respectively; as to such Part, or Parts, of the said Two Provinces respectively as had been granted by or under the Authority of the *French King*, to any Individual, or Individuals,

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*The King's Instruction,
that no popish minister
shall receive tithes from a
protestant, but the same
shall be reserved for support
of a protestant clergy.*

*That to continue in
force as to grants
made by the French King
before the cession.*

duals, or to any Body or Bodies Corporate or Politic, Ecclesiastical or Civil, previously to the Conquest and Cession of the Province of Canada, except in so far as the said Declaration, or Provisions respectively, or any Part thereof, shall be expressly varied, or repealed, by any Act, or Acts, which may be passed by the Legislative Council and Assembly of the said Provinces respectively, and assented to by his Majesty, his Heirs, or Successors, under the Restriction hereinafter provided.

32. And whereas his Majesty has been graciously pleased, by Message to both Houses of Parliament, to signify his Majesty's Royal Intention of granting from and out of the Waste Lands of the Crown, within each of the said Provinces, such Allotments of Land, for the Support and Maintenance of a Protestant Clergy, within the same, as may bear a due Proportion to the Amount of such Lands, within the same, as have at any Time been granted by his Majesty: And whereas his Majesty has been graciously pleased, by his said Message, further to signify his Royal Desire that such Provision may be made, with respect to all future Grants of Land, within the said Provinces respectively, as may best conduce to the due and sufficient Support and Maintenance of a Protestant Clergy, within the said Provinces, in Proportion to such Increase as may happen in the Population and Cultivation thereof:

Therefore, for the Purpose of more effectually answering his Majesty's Gracious Intentions, as aforesaid, and of providing for the due Execution of the same in all Time to come:

Be it Enacted, by the Authority aforesaid, That whenever any Grant of Lands, within either of the said Provinces, shall hereafter be made by or under the Authority of his Majesty, his Heirs, or Successors, there shall at the same Time be made, in respect of the same, a proportionable Allotment and Appropriation of Lands for the above-mentioned Purpose, within the Township or Parish to which such Lands so to be granted shall appertain or be annexed, or as nearly adjacent thereto as Circumstances will admit; and that no such Grant shall be valid or effectual, unless the same shall contain a Specification of the Lands so allotted and appropriated, in respect of the Lands to be thereby granted; and that such Lands so appropriated and allotted shall be, as nearly as the Circumstances and Nature

*Whenever Grants of
land are made, there
shall also be made a pro-
portionable allotment for
the above purpose.*

ture of the Case will admit, of the like Quality as the Lands in respect of which the same are so allotted and appropriated, and shall be, as nearly as the same can be estimated at the Time of making such Grant, equal in Value to the Tenth Part of the Lands so granted.

And be it further Enacted, by the Authority aforesaid, That all and every the Rents, Profits, or Emoluments, arising from such Lands so allotted and appropriated as aforesaid, shall be applicable solely to the Maintenance and Support of a Protestant Clergy, within the Province in which the same shall be situated, and to no other Use or Purpose whatever.

And be it further Enacted, by the Authority aforesaid, That it shall and may be lawful for his Majesty, his Heirs, or Successors, to authorize the Governor, or Lieutenant Governor, of each of the said Provinces respectively, or the Person administering the Government therein, from Time to Time, with the Advice of the Executive Council of such Province, to constitute and erect, within every Township or Parish which now is, or hereafter may be formed, constituted, or erected, within such Province, One or more Parsonage or Rectory, or Parsonages or Rectories, according to the Establishment of the Church of England: And, by an Instrument, under the Great Seal of the Province, to endow every such Parsonage or Rectory with so much, or such Part of the Lands so allotted and appropriated as aforesaid, for, or in respect of any Lands within such Township or Parish, which shall have been granted subsequent to the Commencement of this Act; or of such Lands as may have been allotted for the same Purpose, by or in virtue of his Majesty's Royal Instruction, in respect of any Lands granted before the Commencement of this Act, as such Governor, Lieutenant Governor, or other Person, as aforesaid, with the Advice of the said Executive Council, shall think expedient, under the then existing Circumstances of such Township or Parish.

And be it further Enacted, by the Authority aforesaid, That it shall and may be lawful for his Majesty, his Heirs, or Successors, to authorize the Governor, Lieutenant-Governor, or Person administering the Government of each of the said Provinces respectively, to appoint to every such Parsonage, or Rectory, an Incumbent,

33.

*And the rents thereof
referred for a protestant
minister.*

34.

*The King may authorize
Governor &c. to constitute
a parsonage or rectory
with endowment.*

35.

*And to appoint
Incumbents.*

cumbent, or Minister of the Church of *England*, who shall have been duly ordained according to the Rules of the said Church, and to supply from Time to Time such Vacancies as may happen therein: And that every Person so appointed to any such Parsonage, or Rectory, shall hold and enjoy the same, and all Rights, Profits, and Emoluments thereto belonging or annexed, as fully and amply, and in the same Manner, and on the same Terms and Conditions, and liable to the Performauce of the same Duties, as the Incumbent of a Parsonage, or Rectory in *England*.

36. **Provided** always, and be it further Enacted, That the several Provisions herein before contained, respecting the Allotment and Appropriation of Lands for the Support of a Protestant Clergy within the said Provinces; and also respecting the constituting, erecting, and endowing Parsonages, or Rectories; within the said Provinces, and also respecting the Appointment of Incumbents, or Ministers, to the same; and also respecting the Manner in which such Incumbents, or Ministers, shall hold and enjoy the same, shall be subject to be varied or repealed by any express Provisions for that Purpose, contained in any Act or Acts which may be passed by the Legislative Council and Assembly of the said Provinces respectively, and assented to by his Majesty, his Heirs, or Successors, under the Restriction hereinafter provided.

37. **Provided** nevertheless, and be it further Enacted, That whenever any Act or Acts shall be passed by the Legislative Council and Assembly of either of the said Provinces, containing any Provisions to vary or repeal the above recited Declaration and Provision contained in the said Acts, passed in the Fourteenth Year of the Reign his present Majesty; or to vary or repeal the above recited Provision contained in his Majesty's Royal Instructions, given on the Twenty-second Day of December, in the Year of our Lord One Thousand Seven Hundred and Seventy-four, to Guy Carleton, Esq. now Lord *Dorchester*; or to vary or repeal the Provisions herein before contained, for continuing the Force and Effect of the said Declaration and Provisions; or to vary or repeal any of the several Provisions herein before contained, respecting the Allotment and Appropriation of Lands for the Support of a Protestant Clergy within the said Provinces, or respecting the constituting, erecting, or endowing Parsonages, or Rectories, within the said Provinces, or respecting the Appointment of Incumbents, or Ministers, to the same; or respecting the Manner in which such Incum-

*These regulations abt.
Protestant ministers may
be varied by the
legislature.*

*In what cases, Acts
of the legislature before the
King's assent is given
therein, must be laid before
both houses of parliament.*

Incumbents, or Ministers, shall hold the same; and also, that whenever any Act or Acts shall be so passed, containing any Provisions which shall in any Manner relate to or affect the Enjoyment or Exercise of any Religious Form or Mode of Worship, or shall impose or create any Penalties, Burthens, Disabilities, or Disqualifications, in respect of the same, or shall in any Manner relate to or affect the Payment, Recovery, or Enjoyment, of any of the accustomed Dues or Rights herein before mentioned, or shall in any Manner relate to the granting, imposing, or recovering any other Dues, or Stipends, or Emoluments whatever, to be paid to or for the Use of any Minister, Priest, Ecclesiastic, or Teacher, according to any Religious Form or Mode of Worship, in respect of his said Office or Function; or shall in any Manner relate to, or affect the Establishment or Discipline of the Church of *England* amongst the Ministers and Members thereof within the said Provinces; or shall in any Manner relate to, or affect the King's Prerogative, touching the granting the Waste Lands of the Crown within the said Provinces; every such Act or Acts shall, previous to any Declaration or Signification of the King's Assent thereto, be laid before both Houses of Parliament in *Great Britain*. And that it shall not be lawful for his Majesty, his Heirs, or Successors, to signify his or their Assent to any such Act or Acts until Thirty Days after the same shall have been laid before the said Houses; or to assent to any such Act or Acts, in case either House of Parliament shall, within the said Thirty Days, address his Majesty, his Heirs, or Successors, to refuse his or their Assent to such Act or Acts: And that no such Act shall be valid or effectual to any of the said Purposes, unless the Legislative Council and Assembly shall, in the Session in which the same shall have been passed by them, have presented to the Governor, Lieutenant-Governor, or Person administering the Government, an Address or Addresses, specifying that such Act contains Provisions for some of the said Purposes herein before specially described; and desiring that, in order to give effect to the same, such Act should be transmitted to *England* without Delay, for the Purpose of being laid before Parliament, previous to the Signification of his Majesty's Assent thereto.

And be it further Enacted, by the Authority aforesaid, That all Lands which shall be hereafter granted within the said Province of *Upper Canada* shall be granted in free and common Soccage; and that

*and the King not to
give his assent, till
30 days after.*

38.

*Grants in Upper
Canada, to be in free
Common Soccage.*

*Lower Canada
if the Grantor desires it*

that in every Case where Lands shall be hereafter granted within the said Province of *Lower Canada*, and where the Granter thereof shall desire the same to be granted in free and common Soccage, the same shall be so granted.

39.

And be it further Enacted, by the Authority aforesaid, That if any Person, or Persons, holding any Lands in the said Province of *Lower Canada*, by virtue of any Certificate of Occupancy derived under the Authority of the Governor and Council of the Province of *Quebec*, and having Power and Authority to alienate the same, shall at any Time, from and after the Commencement of this Act, surrender the same into the Hands of his Majesty, his Heirs, or Successors, by Petition to the Governor, or Lieutenant Governor, or other Person administering the Government, of the said Provinces respectively, setting forth, that he, she, or they, is, or are, desirous of holding the same in free and common Soccage; such Governor, or Lieutenant Governor, or other Person, as aforesaid, shall thereupon cause a fresh Grant to be made, to such Person or Persons, of such Lands, to be holden in free and common Soccage.

*Where fresh grants
to be made in free &
common socage, on
surrender.*

40.

Provided nevertheless, and be it Enacted, by the Authority aforesaid, That such Surrender, and Grant, shall not avoid or bar any Right to any such Lands, so surrendered, or any Interest in the same, to which any Person, or Persons, other than the Person, or Persons, surrendering the same, shall have been entitled, either in Possession, Remainder, or Reversion, or otherwise, at the Time of such Surrender; but that every such Right and Title shall be as valid and effectual as if such Surrender, and Grant, had never been made.

*Such surrender &
grant not to bar
any right.*

41.

And whereas it has been declared by an Act, passed in the Eighteenth Year of the Reign of his present Majesty;

Act 18 Geo. 3. c.

" That the King and Parliament of *Great Britain* will not impose any Duty, Tax, or Assessment, whatever, payable in any of his Majesty's Colonies, Provinces, and Plantations, in *North America*, or the *West Indies*, except only such Duties as it may be expedient to impose for the Regulation of Commerce, the net Produce of such Duties to be always paid and applied to and for the Use of the Colony, Province, or Plantation, in which the same shall be respectively levied, in such Manner as other Duties, collected by the Authority of the respective General Courts, or General Assemblies

" of

" of such Colonies, Provinces, or Plantations, are ordinarily paid and " applied : " and, whereas it is necessary, for the General Benefit of the *British* Empire, that such Power of Regulation of Commerce should continue to be exercised by his Majesty, his Heirs, or Successors, and the Parliament of Great Britain, subject nevertheless to the Condition herein-before recited, with respect to the Application of any Duties which may be imposed for that Purpose :

Be it therefore Enacted, by the Authority aforesaid, That nothing in this Act contained shall extend, or be construed, to extend to prevent or effect the Execution of any Law, which hath been, or shall be, enacted by his Majesty, and the Parliament of Great Britain, for establishing Regulations, or Prohibitions, or for imposing, levying, or collecting Duties for the Regulation of Commerce and Navigation, or to convey to the Legislative Councils and Assemblies of the said Provinces respectively, or to his Majesty, his Heirs, or Successors, by and with the Advice and Consent of such Legislative Councils and Assemblies respectively, any Power or Authority to vary or repeal any such Law, or Laws, or any Part thereof, or in any Manner to prevent, or obstruct, the Execution thereof.

Provided always, and be it Enacted, by the Authority aforesaid, That the whole Amount and Produce of all Duties, which shall be so imposed, shall hereafter be applied to and for the Use of each of the said Provinces respectively, and in such Manner only as shall be directed by any Act or Acts made by his Majesty, his Heirs, or Successors, by and with the Advice and Consent of the Legislative Council and Assembly of such Province.

And whereas, by reason of the Distance of the said Provinces from this Country, and of the Change to be made by this Act in the Government thereof, it may be necessary, that there should be some Interval of Time between the Notification of this Act to the said Provinces, and the Day of its Commencement :

Be it therefore Enacted, by the Authority aforesaid, That it shall and may be lawful for his Majesty, with the Advice of his Privy Council, to fix and declare the Day of the Commencement of this Act, provided that such Day shall not be later than the 31st Day of *December* in the Year of our Lord 1791.

*This act not to prevent
or preclude laws made by
parliament of G. Britain for
regulation of commerce.*

42.

*Duties imposed are
to be applied only for the
benefit of the provinces.*

43.

*The King to fix
the commencement of this
Act. not being later
than 31. Dec. 1791.*

And

44. And be it further Enacted, by the Authority aforesaid, That the Time to be fixed by his Majesty, his Heirs, or Successors, or under his or their Authority, by the Governor, Lieutenant Governor, or Person administering the Government, in each of the said Provinces respectively, for issuing the Writs of Summons and Election, and calling together the Houses of Assembly of each of the said Provinces respectively, shall not be later than the 31st Day of December, in the Year of our Lord 1792.

*Writs of Summons
issued later than
31. Dec. 1792.*

45. Provided always, and be it further Enacted, by the Authority aforesaid, that, during such Interval as may happen between the Commencement of this Act and the first Meeting of the Legislative Council and Assembly of each of the said Provinces respectively, it shall and may be lawful for the Governor, or Lieutenant-Governor, of such Province, or for the Person administering the Government therein, with the Consent of the major Part of such Executive Council as shall be appointed by his Majesty for the Affairs of such Province, to make temporary Laws and Ordinances for the good Government, Peace, and Welfare of such Province, in the same Manner, and under the same Restrictions as such Laws or Ordinances might have been made by the Council for the Affairs of the Province of Quebec, constituted by virtue of the above recited Act of the Fourteenth of his present Majesty: And that such temporary Laws or Ordinances shall be binding on the Inhabitants of such Province, until the Expiration of Six Months after the Legislative Council and Assembly of such Province shall have been first assembled by virtue of and under the Authority of this Act, subject nevertheless to be sooner repealed or varied by any Act, or Acts, made by his Majesty, his Heirs, or Successors, by and with the Advice and Consent of the said Legislative Council and Assembly.

*Temporary Laws
to be made for a time
under the Old
Constitution.*

How much of Stat 14 Geo. 3. repealed —	pa 1 & 2.
Quebec divided into Upper & Lower Canada —	pa. 2. 2.
Legislature formed —	pa. 2. 3. 2. 3. 4.
A legislative Council formed —	pa. 3 —
Honors annexed to Councilors' office —	pa. 4 — 6.
A house of Assembly formed —	pa. 6 — 12.
Mode of electing members —	pa. 6 — 13.
Qualifications of electors —	pa. 8 — 10.
Electors oath —	pa. 9 — 22.
Place, Session &c. —	pa 10 — 29. 24.
Members oath —	pa 11.
King's Assent to laws —	pa. 11 — 28.
Papish & Protestant Ministers —	pa. 12. to pa. 16. 36.
Acts to be laid before both houses of parlt. here —	pa. 16 —
Grants to be in force —	pa. 17. 30.
Regulations of Commerce —	pa. 18. 41.
Duties —	pa. 19. 42.
Commencement of the Act —	pa. 19. 43.
Old Constitution to make temporary laws —	pa. 20 —

DRAFT OF A BILL,

To Repeal certain Parts of an Act passed in the Fourteenth Year of His Majesty's Reign, intituled, "An Act for making more effectual Provision for the Government of the Province of *Quebec*, "in *North America*." And to make further Provision for the Government of the said Province.

For L^d Stanley
17 July 1791

